JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

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In re:	*
Complaint of Judicial Misconduct	*No. 06-15-90100
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a pro se prisoner against the district judge who was assigned to his civil action. The complaint alleges that the district judge misconstrued the complainant's case as a mandamus action, rather than a habeas corpus action, and wrongfully assessed a filing fee of $400. The complaint attributes the judge's actions to a "deep hatred for prisoners" and "contempt for the Constitution," which it characterizes as a "mental disability."

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, "is not prejudicial to the effective and expeditious administration of the business of the courts and does not indicate a mental or physical disability resulting in inability to discharge the duties of judicial office"; (B) that the complaint "is directly related to the merits of a decision or procedural ruling"; (C) that the complaint is "frivolous," a term that applies to charges that are wholly unsupported; or (D) that the complaint "lack[s] sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An initial review of the district-court record reveals that the complainant filed a pleading titled "Petition for a Writ of Mandamus and Other Relief" in the federal district court for the District of Columbia. That court transferred the case to the district court in the district where the complainant's custodian is located, and it was assigned to the subject district judge. The district judge ordered that the action be docketed as a petition for a writ of mandamus and that the complainant pay the full filing fee of $400. (The complainant was barred from proceeding in forma pauperis by 28 U.S.C. § 1915(g).) The district judge denied the complainant's motion to convert his mandamus action to an action under 28 U.S.C. § 2241, granted the complainant's motion to dismiss the action, assessed the $400 filing fee, and denied the complainant's motions for relief from the orders requiring payment of the fee.

This complaint is subject to dismissal on the ground that it is directly related to the merits of the district judge's rulings. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings. Any challenge to the merits of a judge's decisions is outside the scope of judicial-misconduct proceedings. *See* Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any ruling by a judge. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

To the extent that the complaint alleges a bias against prisoners or a "mental disability," it is subject to dismissal under Rule 11(c)(1)(D). *See also* 28 U.S.C. § 352(b)(1)(A)(iii). There is no evidence supporting such allegations.

For these reasons, this complaint will be dismissed under 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ *R. Guy Cole, Jr.*
Chief Judge

Date: January 20, 2016